

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2649

AN ACT

AMENDING SECTION 32-1391.05, ARIZONA REVISED STATUTES; RELATING TO PREARRANGED FUNERAL AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 32-1391.05, Arizona Revised Statutes, is amended to
3 read:

32-1391.05. Pearranged funeral agreements funded by trusts: definition

6 A. All monies paid under a prearranged funeral agreement funded by
7 trust, EXCEPT AS PROVIDED IN SUBSECTION B, shall be deposited, within five
8 business days after the receipt of the monies, in a prearranged funeral trust
9 account with a financial institution doing business in this state. The
10 monies shall be invested either in federally insured accounts, in which case
11 the amounts so deposited shall not exceed the amount of the deposit
12 insurance, or in direct obligations of the United States government.
13 Federally insured accounts are defined as accounts insured by the federal
14 deposit insurance corporation or the national credit union administration
15 board. If invested in direct obligations of the United States government,
16 the maturity dates of such obligations shall not exceed three years, unless
17 rules adopted by the superintendent of financial institutions permit a longer
18 period and not less than five per cent of the amounts so deposited shall at
19 all times be deposited in federally insured accounts.

20 B. ALL MONIES PAID UNDER A FIXED PRICE PREARRANGED FUNERAL AGREEMENT
21 FUNDED BY TRUST SHALL BE DEPOSITED, WITHIN THIRTY BUSINESS DAYS AFTER THE
22 RECEIPT OF THE MONIES, IN A PREARRANGED FUNERAL TRUST ACCOUNT WITH A
23 FINANCIAL INSTITUTION DOING BUSINESS IN THIS STATE. IN INVESTING THESE
24 MONIES THE TRUSTEE SHALL EXERCISE THE JUDGMENT AND CARE OF A PRUDENT INVESTOR
25 UNDER THE PREVAILING CIRCUMSTANCES, NOT RELATING TO SPECULATION BUT RELATING
26 TO THE PERMANENT DISPOSITION OF MONIES, CONSIDERING THE PROBABLE INCOME AND
27 THE PROBABLE SAFETY OF CAPITAL. WITHIN THE LIMITATIONS OF THIS SUBSECTION
28 AND SUBJECT TO ANY EXPRESS PROVISIONS OR LIMITATIONS CONTAINED IN ANY
29 PARTICULAR TRUST INSTRUMENT, A TRUSTEE IS AUTHORIZED TO ACQUIRE EVERY KIND OF
30 PROPERTY, INCLUDING REAL, PERSONAL OR MIXED AND EVERY KIND OF INVESTMENT,
31 INCLUDING CORPORATE OBLIGATIONS OF EVERY KIND AND STOCKS, EITHER PREFERRED OR
32 COMMON, THAT PRUDENT INVESTORS ACQUIRE FOR THEIR OWN ACCOUNTS.

B. C. Except as provided in this article:

34 1. All monies deposited in a prearranged funeral trust account and all
35 accrued interest shall be held in the trust account for and remain the
36 property of the beneficiary during the beneficiary's life and of the
37 beneficiary's estate after the beneficiary's death.

38 2. A funeral establishment or another person shall not withdraw,
39 transfer, remove, commingle, encumber or use as collateral any monies paid to
40 the establishment under a prearranged funeral agreement funded by trust.

41 3. All monies deposited and accrued interest in a prearranged funeral
42 trust account shall be exempt from attachment, garnishment, execution and
43 claims of creditors, receivers and trustees of the funeral establishment
44 other than the claims of the beneficiary or the beneficiary's estate.

1 4. All monies deposited and accrued interest in a prearranged funeral
2 trust account up to a total of five thousand dollars shall be exempt from
3 attachment, garnishment, execution and claims of creditors, receivers and
4 trustees of the beneficiary other than the claims of the funeral
5 establishment.

6 ~~C.~~ D. A funeral establishment may direct the financial institution in
7 which the trust monies are deposited to transfer the trust account to another
8 financial institution after providing each participant in the trust with the
9 name and location of the institution and the new trust account number.

10 E. FOR THE PURPOSES OF THIS SECTION, "PRUDENT INVESTOR" MEANS A PERSON
11 WHO EXERCISES THE SAME CARE AND EXPERTISE AS A PERSON OF ORDINARY PRUDENCE,
12 DILIGENCE, DISCRETION AND JUDGMENT WOULD EXERCISE IN THE MANAGEMENT OF THE
13 PROPERTY OF OTHERS, NOT IN REGARD TO SPECULATION, BUT IN REGARD TO THE
14 PERMANENT DISPOSITION OF THE FUNDS CONSIDERING THE PROBABLE INCOME AS WELL AS
15 THE PROBABLE SAFETY OF THE CAPITAL TO BE INVESTED.